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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/607,069	06/29/2000	Jie Cheng	200-0382	7285

28395 7590 07/08/2005

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EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/607,069

Applicant(s)

CHENG ET AL.

Examiner

Michael J. Fisher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/28/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23,24 and 26-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23,24 and 26-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 23 and 26-40 are rejected under 35 U.S.C. 101 because

the claimed invention is directed to non-statutory subject matter. There is no technological innovation in the claims. The limitations could be met merely by looking at a table with the "determining" step being accomplished by a person with no technology being used.

Note: While the preamble states that the method is computer-implemented, only claims 24 and 41 actually use a computer.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 23,24 and 26-41 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As to claims 23 and 24, there is no way to ascertain the functions as claimed. Specifically, there is no way for one of ordinary

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skill in the art to know what to use as a, "constraint for determining a neighbor relationship..." or what to use as a "neighborhood distance function" or how to use this unknown function for, "determining a distance between a pair of used..." or how to, "determine an estimate value... based on the data from the nearest neighbor database..." As to claim 26, there is no way to determine how to, "determin(e) a weighted estimate value... based on the data from ..." While the claims are to be read in light of the specification, there must be enablement in the claims for the limitations therein. As to claim 31, there is no enablement for the limitation, "...resale plan information". The only mention in the specification to a "resale plan" is on page 9, line 8, and there is no mention as to exactly what is meant by, "resale plan information". As to claims 33,35 and 36, the formulae in claims 33,35 and 36 are incomplete. While they list variables to be used, they do not explain how to use the variables therefore there is no way to use these claims. Due to these unknown functions there is no way to make and/or use the invention. Further, from the claims, it would not be possible for one of ordinary skill in the art to know if they were infringing on the claimed invention.

Response to Arguments

Note: Applicant did not resubmit arguments with the current amendment so the examiner will assume that the arguments submitted with the previous, non-responsive, amendment are to be the ones considered.

Applicant's arguments filed 3/10/05 have been fully considered but they are not persuasive. As to arguments in relation to the rejection under 35 USC 101, the

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examiner again asserts that there is no technological innovation Merriam-Webster's Collegiate Dictionary, 10th edition, defines data as, "1: Factual information (as measurements or statistics) used as a basis for reasoning, discussion, or calculation)..." There is no mention of a computer. While data may be computer information it is not necessarily. However, merely receiving data is a trivial use of technology and there is no limitation requiring a computer to actually process the data. Which processing would be a requirement for complying with 35 USC 101. Further, as applicant should note, claims 24 and 41 positively claim the computer as doing the determining, and these claims have not been rejected under 35 USC 101.

As to arguments in relation to the rejection under 35 USC 112, 1st paragraph, the examiner understands what the variables represent, however, they are claimed as being arrived at using formulae that are not present in either the specification or the claims and as such, there is no way for one of ordinary skill in the art to make and/or use the invention. For instance, in claim 23, in section B) is the limitation, "...determining an estimated value for the... based on the data from the nearest neighbor database, the at least one target used vehicle record, the at least one constraint, and the neighborhood distance function..." There is no way from reading the specification or the claims to know how to determine the estimated value. Questions unanswered in this section are; 'How does the nearest neighbor database affect the price of the vehicle?', 'How does the target used vehicle record affect the price of the vehicle?', 'How does the at least one constraint affect the price of the vehicle?', 'What is the constraint used?', 'How does the neighborhood distance function affect the price of

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the vehicle?', 'How does one calculate the neighborhood distance function? (Not which variables are used, but how are they combined?)'. As has been discussed in previous actions, the formulae and equations in the specification are not sufficiently described to be useful. Merely stating that there are formulae is not sufficient as these formulae appear to be used to achieve the result and as such, need to be described so that one of ordinary skill in the art could make and/or use the claimed invention. Applicant has asserted that claim 33 could be understood using the discussion relating to figures 3 and 4. However, this merely reinforces the examiner's position. The specification merely recites the need for a formula that is not given. Figures 3 and 4 ask the question, "Are there enough neighbors?", there is no answer to this question. How does one ensure that there are enough neighbors? The specification is silent, merely saying that the number must be at least a variable "K" or subsequent calculations would not be accurate. How is "K" calculated? What is the minimum number for "K"?

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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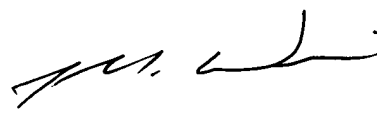
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MF 
6/29/05


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